

IN THE UNITED STATE DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

OLIVIA Y., by and through her next friend, James D. Johnson;
JAMISON J., by and through his next friend, Clara Lewis;
DESIREE, RENEE, TYSON, and MONIQUE P., by and
through their next friend, Sylvia Forster; JOHN A., by and
through his next friend, James D. Johnson; CODY B., by and
through his next friend, Sharon Scott; MARY, TOM,
MATTHEW, and DANA W., by and through their next friend,
Zelatra W.; AND SAM H., by and through his next friend,
Yvette Bullock; on their own behalf and behalf of all others
similarly situated,

Plaintiffs,

v.

PHIL BRYANT, as Governor of the State of Mississippi;
DONALD TAYLOR, as Executive Director of the Department
of Human Services; AND BILLY MANGOLD, as Director of
the Division of Family and Children's Services,

Defendants.

CIVIL ACTION NO.
3:04-cv-251-TSL-FKB

AFFIDAVIT IN SUPPORT OF MOTION FOR ENTRY OF JUDGMENT

I, MARCIA ROBINSON LOWERY, ESQ., affirm under the penalty of perjury that the
foregoing is true and correct:

1. I am Executive Director at A Better Childhood, Inc. and represent Plaintiffs in the above-captioned matter. I submit this Affidavit in Support of Plaintiffs' Motion for Entry of Judgment.
2. On October 1, 2018, United States District Court Senior Judge Tom S. Lee entered an Order for Payment of Plaintiffs' Attorney Fees and Expenses (hereinafter "the Order") after reviewing the parties unopposed Motion for Payment of Plaintiffs Olivia Y. attorneys' fees and expenses in the agreed-upon amount of \$123,810. (*See* Ex. A, Oct. 1, 2018, Order for Payment of Plaintiffs' Attorneys' Fees and Expenses.)

EXHIBIT
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3. To date, Defendants have failed to pay Plaintiffs' the ordered Attorneys' Fees and Expenses.
4. Indeed, I contacted Counsel for Defendants via email on December 12, 2018; December 20, 2018; December 27, 2018; and January 3, 2019 requesting payment pursuant to the Order.
5. Counsel for Defendants responded to my December 12, 2018 email indicating she would check with the Mississippi Attorney General's Office and get back to me.
6. On December 20, 2018, after hearing nothing further from Counsel for Defendants, I again requested payment pursuant to the Order.
7. On December 20, 2018, Counsel for Defendants indicated that Defendants planned to request funding to pay the ordered Attorneys' Fees and Expenses through a deficit appropriation. Counsel for Defendants stated the next legislative session opens the second week of January 2019 and the Mississippi Attorney General's Office will submit the request during that session.
8. On December 27, 2018, I again emailed Counsel for Defendants inquiring about the payment.
9. Counsel for Defendants responded that she informed the Mississippi Attorney General's Office of Plaintiffs' position regarding the outstanding payment and stated that she had not heard back.
10. On January 3, 2019, I again emailed Counsel for Defendants and reminded her that during our negotiations regarding the Order, Plaintiffs explicitly refused to include language subjecting the Attorneys' Fees and Expenses to legislative appropriations.

11. As Defendants are aware, the parties switched from annual funding to biannual funding more than a year ago, because, as a small non-profit, it is important that we receive payment in a timely manner. Now, more than three months have elapsed since the Order was entered for payment.
12. Plaintiffs, therefore, respectfully seek entry of a Final Judgment against Defendants for the payment of Plaintiffs' Attorneys' Fees and Expenses with interest accruing upon entry of such Final Judgment.

Dated: January 7, 2019

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry (pro hac vice)
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Defendants.

**ORDER FOR PAYMENT OF PLAINTIFFS'
ATTORNEYS FEES AND EXPENSES**

The Court, has reviewed the parties unopposed Motion for Payment of Plaintiffs Olivia Y., attorneys' fees and expenses in the agreed-upon amount of **\$ 123,810** for monitoring and enforcement work performed by Plaintiffs' counsel on behalf of the Plaintiff Class from December 1, 2017 through and including June 30, 2018.

SO ORDER, this the 1st day of October, 2018.

/s/Tom S. Lee
TOM S. LEE
UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

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